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1 A. Correct.
2 Q. For Business Options?
3 A. Correct.
4 Q. Do you have that responsibility now?
5 A. Yes.
6 Q. You picked that back up around June?
7 A. Yes.
8 Q. How many complaints from consumers do
9 you receive in a given week?
10 A. In a week, it fluctuates from eight to
11 twenty in a week.
12 Q. Twenty would be considered a lot?
13 A. Yes.
14 Q. And would you consider eight to be a
15 minimum?
16 A. Yes. There could be less, but it's
17 usually not less than eight.
18 MR. HAWA: Twenty is a lot, eight is
19 on the low end?
20 MR. HARKRADER: Yes. Eight would be
21 on the lower side.

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1 THE WITNESS: Uh-huh. Yes.
2 BY MR. HARKRADER:
3 Q. What is your procedure with respect to
4 responding to those complaints -- tell me how
5 those complaints come in.
6 A. They come in -- it depends. Different
7 commissions just call me and give me the name and
8 the phone number. Maine gives me just what they
9 need for me to send back to them. Sometimes
10 customer bills. A lot of commissions usually
11 send me a form, the complainant's name, address,
12 what happened. And then I go in the system and I
13 cancel them completely. And I put a remark that
14 I did that. And that I would be sending the
15 third party verification and the account
16 information.
17 Q. Why do you cancel them automatically?
18 A. Because in the complaints -- well, I
19 usually ask a commission that calls me. But
20 usually when I send it, they say that it was
21 unauthorized and that they don't want it.

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1 Q. Do you do any sort of investigation on
2 your own to determine whether it's a valid
3 complaint?
4 A. Yes. I look in their account and I
5 see if we've had any correspondence with them. I
6 listen to the third party verification. You just
7 go over their account information.
8 Q. Does anybody help you with that?
9 A. No.
10 Q. Have there ever been times where
11 you've determined that a complaint is invalid and
12 that maybe you did switch their service
13 correctly?
14 A. And they just don't want to pay?
15 Q. Well, for whatever reason?
16 A. For whatever reason, yes.
17 Q. How often does that happen?
18 A. Probably quite often.
19 Q. Roughly half the time, half the
20 complaints that you receive?
21 A. No. I would probably say 75 percent

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1 of the time.
2 Q. Seventy-five percent of the complaints
3 that you receive are not legitimate complaints?
4 A. I think so. If it's a good
5 verification.
6 Q. Do you still cancel the service
7 anyway?
8 A. Yes.
9 MR. HAWA: Just to be clear for the
10 record, we're throwing around numbers by way of
11 illustration and for understanding of the
12 question, not for any technical accounting of
13 what percentages --
14 MR. HARKRADER: No. I'm trying to get
15 a sense for how this works, you know.
16 BY MR. HARKRADER:
17 Q. And you say you listen to the third
18 party verification tapes as well?
19 A. Yes. Uh-huh.
20 Q. Do you ever receive or does Avatar,
21 Buzz Telecom, ever receive complaints directly

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1 from consumers?

2 **A. That would go to the customer service**

3 **department.**

4 Q. Okay. And you are in division seven?

5 **A. Division six.**

6 Q. Division six of Avatar?

7 **A. Correct.**

8 Q. What is division six?

9 **A. I haven't -- it's just the legal**

10 **department, regulatory affairs.**

11 Q. When you were at Buzz Telecom, were

12 you in division seven at Buzz Telecom?

13 **A. I believe so.**

14 Q. So is it fair to say that what was

15 formerly the division seven -- formerly the

16 responsibilities of division seven with Buzz, are

17 now the responsibilities of division six in

18 Avatar?

19 **A. Correct.**

20 Q. You also had responsibilities for

21 regulatory expansion in November and December?

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1 **A. Yes.**

2 Q. And during that time, one of your

3 responsibilities had to do with filing tariffs?

4 **A. Correct.**

5 Q. And updating tariffs?

6 **A. Yes.**

7 Q. How did you learn to do that?

8 **A. It wasn't easy because the**

9 **applications that were filed were not saved for**

10 **Buzz Telecom anywhere. So I had to redraft the**

11 **entire tariff for that state if they called for a**

12 **revision.**

13 Q. So the process was --

14 **A. Anything I did, I saved. Anything**

15 **that came in later on, whoever did it before, did**

16 **not save. I had to redo the whole process.**

17 Q. And when you say "saved," you mean

18 there's no hard copy in a file?

19 **A. Right. There's no disk.**

20 Q. There's no soft copy?

21 **A. Correct.**

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1 Q. That must have made your job so easy.

2 So take me through how that process would work.

3 Say a state calls you up and says that we need

4 you to file an updated tariff; is that how it

5 would work?

6 **A. Well, when I send them in, I send in**

7 **the application, whatever the application calls**

8 **for and the tariff. I don't believe that's how**

9 **it was done before I came in. I think that they**

10 **sent in the application and then letter on, sent**

11 **in the tariff when they asked for it.**

12 Q. How would you know when it was time to

13 file an application and tariff for a particular

14 state?

15 **A. When I -- after I sent it to the**

16 **state, an application and tariff, and get that on**

17 **the way, then I go to states that haven't been**

18 **certified.**

19 Q. Did you have a list of the states in

20 which Buzz Telecom was certified?

21 **A. Yes.**

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1 Q. Were you working off that list?

2 **A. Yes. I made my own list.**

3 Q. Starting with Alabama and going down?

4 **A. Right.**

5 Q. And how did you know what tariffs to

6 file in the particular states?

7 **A. Well, there was a basic tariff, and I**

8 **sent that with the name of that state in there,**

9 **and the correct date. And then they would call**

10 **me with any revisions that they wanted me to do**

11 **according to whatever their state regulations**

12 **were.**

13 Q. Is it fair to say that you had a lot

14 of contact with employees of the state

15 commissions?

16 **A. Yes.**

17 Q. How often did you have this kind of

18 contact in a given week?

19 **A. In the beginning, are you talking**

20 **about?**

21 Q. November, December.

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1 A. November and December, I didn't have a
2 whole lot, actually.

3 Q. Why is that?

4 A. I don't know. A lot of them -- it was
5 in the beginning, so I didn't send in a whole lot
6 in November and December.

7 Q. This was something that you started
8 doing a lot more of; that is, sending in
9 applications and tariffs? You started doing more
10 of that in January and February?

11 A. Yes.

12 Q. Were you sending in any applications
13 and tariffs in November and December?

14 A. Yes.

15 Q. And they were all on behalf of Buzz
16 Telecom, correct?

17 A. Yes.

18 Q. And you didn't hear back from the
19 state commissions in that time period?

20 A. If they needed stuff, they would call
21 me, but I didn't get a whole lot of call backs.

1 A. Balance sheet, profit and loss, and
2 cash statement of cash flows.

3 Q. Was that something that was required
4 by all states?

5 A. I believe so, yes.

6 Q. Did you make it a regular part of your
7 application and tariff filings to include
8 financial statements?

9 A. When they ask for it.

10 Q. So initially when you send an
11 application and tariff, you didn't include -- or
12 you wouldn't regularly include --

13 A. Unless it specifically asked for it in
14 the application.

15 Q. That's fair. But oftentimes even
16 though they didn't ask for it, they would still
17 call you back and say "We need financial
18 statements"?

19 A. A couple states did that.

20 Q. And where would you get these
21 financial statements?

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1 One of the states I sent in was Idaho, and 11
2 days after I sent it, I got it back approved
3 without anything.

4 Q. When you did hear back from them, and
5 this is at any time, what kind of information
6 were they looking for?

7 A. Like contact information, maybe
8 financial statements.

9 Q. What do you mean by "contact
10 information"?

11 A. Company contact, regulatory contact,
12 complaint contact.

13 Q. Would you be one of those contacts?

14 A. I actually happen to be all of the
15 contacts.

16 Q. All of the contacts?

17 A. Correct.

18 Q. And would you also provide financial
19 statements?

20 A. Yes.

21 Q. What kind of financial statements?

1 A. Through accounting.

2 Q. Who in accounting?

3 A. Rebecca Irwin.

4 Q. And how would you request that
5 information?

6 A. I would just send over a request
7 stating what I needed, the statements that I
8 needed. I would usually tell her for what state
9 it was for.

10 Q. So the financial statements that you
11 would send in, were state-specific?

12 A. No. I would just give her
13 information.

14 Q. Such as?

15 A. I need these statements for, say, the
16 Maine application.

17 Q. And was it always the same three types
18 of financial statements?

19 A. Yes.

20 Q. Was it always profit and loss, balance
21 sheet and --

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1 **A. It was either those three or the**
2 **balance street and the profit and loss.**
3 Q. Do you supervise anyone now?
4 **A. No.**
5 Q. Did you when you first started?
6 **A. No.**
7 Q. During that very brief time period
8 between March and June, when you were not
9 responsible for the complaints, were you
10 supervising that individual?
11 **A. I was helping her, me and Shannon**
12 **Dennie were.**
13 Q. Do you have a good working
14 relationship with Shannon Dennie?
15 **A. Yes.**
16 Q. And you've been doing it now for nine
17 months?
18 **A. Yes.**
19 Q. How do you divide up the
20 responsibilities in the office?
21 **A. We have our own duties outlined.**

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1 Q. Who outlined those duties?
2 **A. Shannon.**
3 Q. Do you report to her?
4 **A. Yes, I do.**
5 Q. Do you do work separate and apart from
6 what she does?
7 **A. Yes.**
8 Q. Does she do work that you do not do?
9 **A. Yes.**
10 Q. Can you give me an example of work
11 that she does that you do not do?
12 **A. I'll do annual reports. She'll do USF**
13 **reports or -- is that what you mean?**
14 Q. Exactly.
15 MR. HAWA: I have to ask for
16 clarification here again, because the first
17 question you asked was does Lisa report to
18 Shannon. The answer is yes. And now you're
19 talking about -- is the question: Is there any
20 work that Lisa does not report to Shannon on? Or
21 are you just --

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1 MR. HARKRADER: I'm trying to figure
2 out what they do separate and apart from each
3 other.
4 BY MR. HARKRADER:
5 Q. So for example, you file, did you say,
6 annual reports?
7 **A. Annual reports.**
8 Q. And does she see those before you file
9 them?
10 **A. Yes.**
11 Q. And those annual reports go to states?
12 **A. States and commissions.**
13 Q. And what do those annual reports
14 report?
15 **A. It depends on the state. Some just**
16 **ask for an update of information, address,**
17 **contact, phone number, registered agent. And**
18 **some of the reports ask for the earnings for the**
19 **past year, how many customers, stuff like that.**
20 Q. Is it your understanding that you have
21 to file these annual reports in every state in

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1 which Buzz or BOI is authorized to do business?
2 **A. Correct.**
3 Q. Do you do any work with Universal
4 Service -- USF?
5 **A. No, I don't. I don't do the**
6 **assessment fees, either.**
7 Q. What are the assessment fees?
8 **A. I don't know. I don't do them. They**
9 **come in, but I don't do them. I've seen them,**
10 **but I don't do them.**
11 Q. Do you know what they measure or
12 record?
13 **A. No.**
14 Q. And that's something that Ms. Dennie
15 does?
16 **A. Yes.**
17 Q. And she doesn't ever come to you and
18 ask you to review them?
19 **A. No.**
20 Q. Are there other responsibilities --
21 put it this way: Do you have any filings with

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1 state commissions or the FCC that Ms. Dennie does
2 not review?
3 A. Yes. I did send in some that she did
4 not review because I did not realize, when I
5 first started doing them, that she needed to
6 review them.
7 Q. As a regular policy, do you have any
8 filings that you send in without having Ms.
9 Dennie review them?
10 A. Yes.
11 Q. Does anybody in Buzz Telecom or Avatar
12 review those filings?
13 A. Shannon Dennie does now.
14 Q. When did she not review them?
15 A. When I first started doing them, I
16 didn't realize that I needed her to review them
17 in January.
18 Q. What were these filings?
19 A. They were just simple -- a lot of them
20 were updated information. When they started
21 asking for earnings of the year or the profits

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1 for the prior year, then I started going to
2 Shannon and asking her for her assistance.
3 Q. And when did you start going to her
4 for her assistance?
5 A. Probably in February.
6 Q. So as of today, is it fair to say that
7 any reports or filings that you send out, Ms.
8 Dennie reviews?
9 A. Yes.
10 Q. No exceptions to that?
11 A. No.
12 Q. Is that -- strike that.
13 Did there come a time when you learned
14 that the State of Vermont was investigating
15 Business Options?
16 A. Yes.
17 Q. When was that?
18 A. A couple days after I started.
19 Q. And who told you?
20 A. Shannon did.
21 Q. What did she tell you?

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1 A. Something came in from Vermont through
2 the mail and she had me read it.
3 Q. Do you remember about when that was?
4 A. Probably late November, mid to late
5 November. I hadn't been there more than a week.
6 Q. Do you remember what came in the mail?
7 Was it a letter?
8 A. It was a letter.
9 Q. What did that letter say?
10 A. I don't remember exactly.
11 Q. Before you received that letter,
12 before Ms. Dennie gave that letter to you, did
13 you have any understanding that Vermont was
14 investigating Business Options?
15 A. No.
16 Q. That was the first you heard of it?
17 A. Yes.
18 Q. Did Ms. Dennie explain to you about
19 the investigation by the State of Vermont?
20 A. Probably a little bit, I don't recall.
21 Q. Did she ask you to do something in

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1 response to that letter?
2 A. She asked me to call the FCC.
3 Q. The FCC?
4 A. Uh-huh.
5 Q. Okay. Do you remember who the letter
6 was addressed to?
7 A. I believe it was addressed to Bill
8 Brzycki.
9 Q. Do you know if this is the letter to
10 which you're referring (indicating)?
11 A. Yes, I believe it is.
12 Q. What you have in front of you is a
13 letter November 19th; is it not?
14 A. Correct.
15 Q. From Sarah Hoffman at the Vermont
16 commission?
17 A. Yes.
18 Q. Directed to Mr. Brzycki?
19 A. Correct.
20 Q. Did you read this letter right away?
21 A. Yes.

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1 Q. And in paragraph one, subparagraph A,
2 could you read that out loud, please.
3 A. **"Upon board approval of a settlement,**
4 **BOI was to initiate the procedure outlined in 47**
5 **CFR 63.71 for terminating service to Vermont**
6 **customers who are currently being served by BOI.**
7 **Also mandates such notice to the PUC Governor and**
8 **the U.S. Secretary of Defense. Our agreement**
9 **calls for BOI to send notice to the effective**
10 **customers in the form of a letter that was**
11 **attached to the stipulation."**
12 Q. When you first read that, did you have
13 any idea what the State of Vermont was talking
14 about when they referenced that rule?
15 A. No.
16 Q. Did you try to find out what that rule
17 said?
18 A. I did try to.
19 Q. Immediately after reading the letter?
20 A. No.
21 Q. When did you try to find out what that

1 Q. Did you understand, when you read this
2 letter, that Vermont and BOI entered into an
3 agreement whereby BOI would discontinue service
4 in Vermont?
5 A. Before I read the letter, no.
6 Q. Afterwards?
7 A. Not really.
8 Q. What is your understanding of what
9 this letter was about?
10 A. I really didn't understand a lot of it
11 at that time. I didn't know what was going on.
12 I didn't know that it had been going on -- the
13 correspondence between BOI and Vermont, is what I
14 mean. It seemed like everything was happening so
15 fast and they wanted everything done.
16 Q. Who is "they"?
17 A. Vermont.
18 Q. Did you look at this as if it was a
19 big deal?
20 A. Yes, I did.
21 Q. I assume that even though at this time

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1 rule said?
2 A. I believe the next day.
3 Q. Did you have any success?
4 A. No.
5 Q. And what did you do to find out what
6 that rule said?
7 A. I went on-line.
8 Q. Do you remember where you went?
9 A. No, I don't.
10 Q. Reading this letter, did you have any
11 general idea about what that rule referred to?
12 A. No.
13 Q. Did you understand, either before or
14 after you read the letter, that BOI was required
15 to discontinue service in Vermont?
16 A. Can you repeat that?
17 Q. Did you understand, either before or
18 after you read this letter, that BOI was required
19 to discontinue service --
20 MR. HAWA: They signed a voluntary
21 stipulation.

1 you hadn't -- you'd been on the job more than
2 maybe a week or two and you probably hadn't had a
3 whole lot of interaction with state commissions.
4 This was the first time that you had actually
5 received a letter from a state commission?
6 A. Yes.
7 Q. What did you understand was your
8 responsibility to do after reading this letter?
9 A. To be honest, I didn't know what to do
10 after I read the letter.
11 Q. And Ms. Dennie had suggested that you
12 call the FCC?
13 A. Correct.
14 Q. And did you do that?
15 A. Yes.
16 Q. Who did you speak to?
17 A. John Mincoff.
18 Q. Was that the first person you called?
19 A. Yes.
20 Q. How did you get his name?
21 A. I don't recall. I don't think anybody

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1 gave it to me. I believe I called and told him
2 the situation and they directed me to him.
3 Q. And what did you say to Mr. Mincoff
4 when you first spoke to him?
5 A. I just told him what I received, and
6 told him I didn't understand what it was. And he
7 told me that I needed to file a Discontinuance
8 Application.
9 Q. With whom?
10 A. With them.
11 Q. With the FCC?
12 A. Correct.
13 Q. Did he tell you anything else?
14 A. At that time, I don't think so.
15 Q. What did you say to him after he told
16 you you needed to file a Discontinuance
17 Application with the FCC?
18 A. I asked him if he had an example that
19 I could look at.
20 Q. Did he?
21 A. Yes.

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1 Q. Did he send it to you?
2 A. Yes.
3 Q. Do you remember when he sent that to
4 you?
5 A. I believe it was the next day. It was
6 either the same day or the next day, I don't
7 remember.
8 Q. In any event, it would have been very
9 soon thereafter you spoke to him?
10 A. He faxed it to me.
11 Q. I may have already asked you this:
12 What is your memory as to when Ms. Dennie gave
13 you this letter?
14 A. It was within the first week I was
15 there. I don't think I was there longer than a
16 week.
17 Q. And you started in November?
18 A. Correct.
19 Q. I'm going to show you, Ms. Green, a
20 copy of a fax cover sheet with a fax behind it
21 that's dated December 18th.

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1 A. Okay.
2 Q. Is that what --
3 A. This was after the letter to
4 customers -- I think I'm getting confused with
5 the timeframes.
6 Q. That's what I wanted to clear up. So
7 did you speak to either Mr. Mincoff or Mr. Adams
8 in November?
9 A. I don't believe so. I'm thinking
10 of -- I apologize. I'm thinking of beyond the
11 Discontinuance Letter that went out.
12 Q. Does that also jog your memory with
13 respect to when you received the November --
14 A. No. I received this in November.
15 Q. From Ms. Dennie?
16 A. Correct.
17 Q. And she asked you to call the FCC?
18 A. That's where I think I got confused.
19 After the Discontinuance Letter went out, that's
20 when I called the FCC, after the Discontinuance
21 Letter went out to all customers.

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1 Q. What did Ms. Dennie ask you to do when
2 she handed you this November 19th letter?
3 A. I believe she told me that we needed
4 to write a letter.
5 Q. To whom?
6 A. To the Vermont customers, a
7 Discontinuance Letter.
8 Q. Okay. Did she ask you to contact the
9 Vermont commission?
10 A. No.
11 Q. Did she say anything about the Vermont
12 commission?
13 A. She was in contact with Vermont.
14 Q. She was. Did she tell you that she
15 was going to be in contact with the Vermont
16 commission?
17 A. No. She didn't tell me, but I
18 remember mentioning Sarah's name, that she had
19 talked to Sarah. And I have never talked to
20 Sarah.
21 Q. And Sarah is Ms. Sarah Hoffman at the

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1 Vermont commission?
2 **A. Correct.**
3 Q. Around the same time period, did you
4 also receive or were you aware that Business
5 Options received a letter from the FCC alleging
6 that Business Options had slammed a number of
7 customers?
8 **A. I don't recall receiving that.**
9 Q. Do you recall hearing anything about
10 that at that time?
11 **A. No.**
12 Q. I'm going to show you a letter dated
13 November 1st from the FCC and directed to the
14 legal department at Business Options. Do you
15 recall ever receiving that letter in November of
16 2002?
17 **A. No.**
18 Q. Have you seen that letter before right
19 now?
20 **A. Yes.**
21 Q. When was that?

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1 **A. Probably a couple months ago.**
2 Q. Are you able to be a little more
3 precise? Was it November, December or January?
4 **A. No.**
5 Q. February, March or April?
6 **A. Around that time.**
7 Q. And at that time, do you remember how
8 you saw that letter during that time?
9 **A. I was looking for something in the**
10 **Vermont file and I saw it there.**
11 Q. Did you read it at that time?
12 **A. A little bit, I did.**
13 Q. Did you ask somebody about it?
14 **A. No.**
15 Q. Did you take any action with respect
16 to that letter when you saw it?
17 **A. No.**
18 Q. So the first time you saw it was in
19 February, March or April, roughly, and of this
20 year?
21 **A. Correct.**

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1 Q. Did you ever talk to anybody at
2 Business Options, or Buzz, or Avatar about this
3 letter?
4 **A. No.**
5 Q. So you had no responsibility in
6 responding to it?
7 **A. No.**
8 Q. Thank you. Did you know if Ms. Dennie
9 had any responsibility responding to that letter?
10 **A. No, I don't know.**
11 Q. We talked a little bit earlier about
12 the Vermont commission investigation.
13 **A. Uh-huh.**
14 Q. Are you aware of how the Vermont
15 investigation was resolved, if at all?
16 **A. Yes.**
17 Q. How was that?
18 **A. Customers were refunded all charges**
19 **that were incurred from January of 2002**
20 **throughout the entire year.**
21 Q. Do you remember if -- were you aware,

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1 in November or December, that Business Options
2 entered into in an agreement with the Vermont
3 commission to terminate that investigation?
4 **A. No.**
5 Q. Did you know anything about that?
6 **A. No.**
7 Q. You don't know anything about a
8 stipulation between Business Options and the
9 Vermont commission?
10 **A. No.**
11 Q. I'm showing you a fax from the State
12 of Vermont to Mr. Kurtis Kintzel, that looks to
13 have been sent around November 26. What it
14 includes is an order and a stipulation resolving
15 the Vermont investigation. And I want you to
16 take a couple of minutes and just kind of scan
17 that.
18 (Witness Reviews Document.)
19 Q. You've had a little bit of time to
20 view the Vermont stipulation and the Vermont
21 order. Do you have any memory of ever seeing

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1 that before today?

2 A. No.

3 Q. Do you have any memory of having any

4 discussions with anybody at Business Options

5 about that stipulation or the order adopting that

6 stipulation?

7 A. Bits and pieces of it.

8 Q. And when was that? When did you have

9 these discussions?

10 A. Probably in the beginning of December.

11 Q. With whom?

12 A. Shannon Dennie.

13 Q. And what was the nature of those

14 discussions?

15 A. I believe that she informed me that we

16 had to refund and/or credit the customers and

17 have our license withdrawn from the state.

18 Q. Did she tell you why?

19 A. She told me it was because of

20 complaints and not filing reports.

21 Q. Did she tell you anything about Rule

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1 63.71?

2 A. I don't believe so.

3 MR. HAWA: Rule 63.71 being?

4 MR. HARKRADER: 47 CFR 63.71.

5 MR. HAWA: What's the title of that

6 rule? I'd rather use the title of that rule so

7 we don't have statutory reference.

8 MR. HARKRADER: Okay. The

9 Discontinuance Rule, would that be all right?

10 MR. HAWA: Yes.

11 BY MR. HARKRADER:

12 Q. When did that conversation take place?

13 A. Probably in the beginning of December.

14 Q. The first week in December?

15 A. Yes.

16 Q. So it was after Ms. Dennie had given

17 you the November 19th letter from the State of

18 Vermont?

19 A. Correct.

20 Q. Did you have any other discussions

21 with Ms. Dennie or anyone else about that

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1 stipulation or the order adopting the

2 stipulation?

3 A. No.

4 Q. So to your memory, you had one

5 conversation with anyone about --

6 A. I had a couple conversations with

7 Shannon Dennie regarding the same information.

8 Q. All within that same period?

9 Generally, the first week in December?

10 A. Towards the end of November, first

11 week of December.

12 Q. Did you have any conversations with

13 her about this stipulation or the order adopting

14 that stipulation as it related to what she asked

15 you to do in response to the November letter?

16 A. I'm sorry, can you repeat that?

17 Q. Let me ask it a better way.

18 A. Thank you.

19 Q. Or what I hope will be a better way.

20 When you were having the conversations

21 with Ms. Dennie about the stipulation and the

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1 order, did you discuss with her the November 19th

2 letter as well?

3 A. No. She might have been discussing

4 from the letter, but we were not going over the

5 letter. Is that what you mean? I don't recall

6 seeing this letter.

7 Q. Just for the purposes of my question,

8 I'll call this the stipulation, and that will be

9 the November 19th letter (indicating).

10 A. Okay.

11 Q. When you were discussing with Ms.

12 Dennie the stipulation, did you ever discuss at

13 the same time the November 19th letter?

14 A. It wasn't really specific like that.

15 She was basically letting me know what needed to

16 be done. I don't recall her referring to any

17 specific letter.

18 Q. What was she telling you needed to be

19 done?

20 A. That I -- that we needed to do a

21 Discontinuance Letter to the customers. She did

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1 show me a letter; I don't believe it was this
2 one. And that they needed to be credited and
3 refunded since January of 2002.
4 Q. Was it part of your responsibilities
5 to credit and refund the customers?
6 A. No.
7 Q. Why was she telling you that the
8 customers needed to be credited or refunded?
9 A. She wasn't telling me to do that. She
10 was just telling me that that was what needed to
11 be done.
12 Q. So you had no obligation to put that
13 in motion?
14 A. No.
15 Q. Did you have any other obligation or
16 did Ms. Dennie ask you to do anything besides
17 draft the Discontinuance Letter to the customers?
18 A. I had to do the Discontinuance
19 Application.
20 Q. To the FCC?
21 A. To the FCC, correct.

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1 Q. Did Ms. Dennie ask you to do that?
2 A. I think the FCC told me to do that.
3 Q. And who at the FCC told you to do
4 that?
5 A. I believe it was John Mincoff.
6 Q. Do you remember when he told you to do
7 that?
8 A. Shortly after the Discontinuance
9 Letter went out, I believe.
10 Q. Okay. I'm going to show you what I
11 think is a copy of the Discontinuance Letter
12 you're referring to. Will you take a quick look
13 at that and let me know if that's the case.
14 A. Yes.
15 Q. It is?
16 A. Uh-huh.
17 Q. When did you draft that?
18 A. I didn't.
19 Q. Do you know who did?
20 A. No, I don't. I drafted one, but
21 that's not the one I drafted.

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1 Q. How does that one differ from the one
2 that you drafted?
3 A. We received a sample from Vermont of
4 the information, of what it should be in this
5 letter, and I made a few changes, but I basically
6 mirrored the one that Vermont sent.
7 Q. Is that the version that was sent out
8 to Vermont customers?
9 A. No.
10 Q. Who changed it?
11 A. I don't know who changed it.
12 Q. Who sent the letter out to the Vermont
13 customers?
14 A. I believe it was division one.
15 Q. Do you remember anyone --
16 A. You mean, that mailed them out?
17 Q. Yes.
18 A. Yes. I believe that was division one.
19 Q. Do you know who authorized the mailing
20 of those letters?
21 A. I believe Kurtis. We didn't do that.

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1 I didn't directly hear anybody say, "This person
2 has to do it."
3 Q. So that's -- you're just speculating
4 that Kurtis authorized that?
5 A. Yes.
6 Q. You don't know that for sure?
7 A. No.
8 Q. How soon, after Ms. Dennie asked you
9 to draft the Discontinuance Letter, did you draft
10 it or write it?
11 A. Either that day or the following day.
12 I believe it was the same day that she asked me.
13 We already had the sample.
14 Q. You had the sample from the State of
15 Vermont?
16 A. Correct.
17 (A short break was taken.)
18 Q. I'd like to show you a copy -- a
19 different copy of the final stipulation. I think
20 it's an unsigned copy that was sent on September
21 9th. And it was attached to a letter to Bill

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1 Brzycki. And it's Bate Number 08135. I realize
2 you were not employed by Buzz Telecom at the
3 time. But that attaches to it a sample
4 Discontinuance Letter from the State of Vermont,
5 and I want you to take a look at that, please.
6 (Witness Reviewing Document.)

7 A. Yes.

8 Q. And the Bate Number on that document
9 is entitled "Illustrative Sample Discontinuance
10 of Service Letter, 08142;" is it not?

11 A. Correct.

12 Q. Is that the letter that you used as a
13 reference when drafting the Discontinuance
14 Letter?

15 A. Yes.

16 Q. How did you get a copy of that letter?

17 A. Shannon Dennie gave it to me.

18 Q. Do you remember when she gave that to
19 you?

20 A. I don't remember.

21 Q. Was it around the time that she spoke

1 A. I think she gave it to Kurtis.

2 Q. Do you know that or are you
3 speculating?

4 A. I'm speculating.

5 Q. Did she say anything to you about what
6 she was going to do with that letter or what she
7 did with that letter?

8 A. No.

9 Q. I've already shown you this letter,
10 which is a copy of a Discontinuance Letter, Bate
11 Stamp 08077. And it is an unsigned letter that
12 bears your signature line on it; is it not?

13 A. Yes.

14 Q. But that's not the letter that you
15 drafted initially?

16 A. No.

17 Q. And that's not the letter you drafted
18 at all?

19 A. Period, no.

20 Q. I also want to show you a document
21 without a Bate Number that appears to be

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1 with you and gave you the November 19th letter?

2 A. It wasn't the same time.

3 Q. It was the end of November?

4 A. Either the end of November or the very
5 beginning of December.

6 Q. And you took that illustrative letter
7 from the State of Vermont and turned that into a
8 Discontinuance Letter?

9 A. Yes.

10 Q. That you or someone was going to send
11 out to the customers in Vermont?

12 A. Yes.

13 Q. And that letter was going to let them
14 know that they were no longer going to be able to
15 have service from Business Options?

16 A. Yes.

17 Q. And then what did you do with that
18 letter after you drafted it?

19 A. I gave it to Shannon.

20 Q. Do you know what she did with that
21 letter?

1 identical, yet this one bears your signature.

2 A. Yes.

3 Q. Is that your signature?

4 A. Yes.

5 Q. Can you tell me why that document has
6 your signature, why that letter has your
7 signature?

8 A. Kurtis asked me to sign it.

9 Q. When did he do that?

10 A. Are you talking about a specific date?

11 Q. How about in relation to when all of
12 this was going on?

13 A. It was probably late November,
14 December or January, somewhere around there.

15 Q. I'm trying to get a chronology in my
16 mind of when things were happening.

17 A. It's hard for me to remember because I
18 didn't really understand what I was doing.

19 Q. Did you say anything to Kurtis when he
20 asked you to sign that?

21 A. I don't believe so.

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1 Q. Did you ask him why?
2 A. **Why it was changed, no, I didn't.**
3 Q. Did you ask him why he asked you to
4 sign that letter?
5 A. **No, I didn't.**
6 Q. And you didn't talk to him at all
7 about why the letter had changed from the version
8 that you wrote?
9 A. **He simply stated that there was a few**
10 **changes made in the letter.**
11 Q. Did he tell you why those changes were
12 made?
13 A. **No, he didn't.**
14 Q. And he didn't tell you who made those
15 changes?
16 A. **No, he didn't. I stated that he put**
17 **my name on it, so now the customers are going to**
18 **be mad at me.**
19 Q. You told him that?
20 A. **Yes.**
21 Q. What did he say?

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1 A. **Nothing.**
2 Q. Was he angry?
3 A. **No.**
4 Q. Did he laugh?
5 A. **I made it like a joke. He laughed**
6 **with me.**
7 Q. He laughed. And what did he do with
8 the letter after you signed it?
9 A. **I don't know.**
10 Q. Did he leave it with you?
11 A. **No.**
12 Q. He took it away?
13 A. **Yes.**
14 Q. I don't know if I've seen the other
15 version of the letter.
16 A. **My version?**
17 Q. Yes. That you're talking about.
18 A. **I don't believe you have.**
19 Q. Do you know why I haven't?
20 A. **Because it wasn't sent out.**
21 Q. Is it anywhere in your files?

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1 A. **I believe so.**
2 MR. HARKRADER: Have you sign that,
3 Kemal?
4 MR. HAWA: No.
5 MR. HARKRADER: I'd like to see a copy
6 of that letter.
7 THE WITNESS: Would you like me to go
8 get it?
9 MR. HARKRADER: You have it with you?
10 THE WITNESS: No. But the office is
11 right there.
12 MR. HARKRADER: I would.
13 THE WITNESS: Right now?
14 MR. HARKRADER: No. Not right now.
15 We'll try to be efficient about this.
16 MR. HAWA: This is the letter that
17 mirrored the Vermont proposed Discontinuance
18 Letter?
19 MR. HARKRADER: Precisely.
20 MR. HAWA: The Vermont illustrative
21 Discontinuance Letter.

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1 MR. HARKRADER: The one that Ms. Green
2 drafted in response to Ms. Dennie's request.
3 MR. HAWA: The one that doesn't comply
4 with the FCC's rules.
5 THE WITNESS: The one that's just like
6 this (indicating). This is in compliance with
7 the FCC rules.
8 BY MR. HARKRADER:
9 Q. Do you know why that doesn't comply
10 with the FCC's rules?
11 A. **This one (indicating)?**
12 Q. Whatever one you just held up.
13 A. **I said that it did.**
14 MR. SHOOK: This one, that one, we're
15 never going to have a clue what we're talking
16 about here.
17 MR. HAWA: I understand.
18 THE WITNESS: 08142, I believe was in
19 compliance with FCC rules.
20 MR. HARKRADER: I'm sorry. I thought
21 you held up 08142 and said that it did not comply

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1 with the FCC.

2 THE WITNESS: Oh, no.

3 MR. HARKRADER: You did not say that?

4 THE WITNESS: No. I did not.

5 MR. HAWA: 08142 is the illustrative
6 sample Discontinuance Letter by Vermont.

7 BY MR. HARKRADER:

8 Q. To your knowledge, did the
9 Discontinuance Letters that went out to the
10 Vermont customers go out under your signature?

11 A. Yes.

12 Q. The copy of that letter that has your
13 signature on it that does not have a Bate Stamp,
14 but starts out, "Business Options will no longer
15 be servicing Vermont customers." Is that your
16 understanding of the letter that went out to the
17 Vermont customers?

18 A. Yes.

19 Q. I'd like to direct your attention back
20 to November 19th letter.

21 A. Okay.

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1 Q. You can put those aside if that will
2 help you. And I believe your testimony is, and
3 please tell me if I'm wrong, that after Ms.
4 Dennie came to you and gave you that letter and
5 asked you to do something in response to that,
6 that something was drafted a Discontinuance
7 Letter to the Vermont customers?

8 A. Right, uh-huh.

9 Q. You also said earlier that you tried
10 to find out what 47 CFR Section 63.71 said?

11 A. Right.

12 Q. And you said you tried to do that soon
13 thereafter within a day?

14 A. Right.

15 Q. Of Ms. Dennie coming to you. Did you
16 ever find out what 47 CFR Section 63.71 said?

17 A. Much later on. We were rushed for
18 time.

19 Q. When did you find out what 47 CFR
20 Section 63.71 said?

21 A. Probably towards the end of December.

1 Q. Was it after the Discontinuance

2 Letters had been sent out to the Vermont
3 customers?

4 A. Yes.

5 Q. Was it after you had filed the
6 Discontinuance Application with the FCC?

7 A. Yes.

8 Q. So it was also after you filed the
9 waiver with the FCC and also after you had had
10 the conversations with Mr. Mincoff at the FCC?

11 A. Yes.

12 Q. What is your understanding of the
13 purpose of this November 19th letter?

14 A. My understanding of it, just letting
15 BOI know what needs to be done.

16 Q. And looking at the sentence in 1-A
17 that says, "Our agreement calls for BOI to send
18 notice to the effected customers in the form of a
19 letter attached to the stipulation," that let
20 you know what?

21 A. That we needed to send a letter to

1 customers notifying them of what was going to
2 happen.

3 Q. And looking at the sentence in 1-B,
4 which says, "Recipients of the notice have 15
5 days from receipt to file objections with the
6 FCC." What was that sentence letting you know?

7 A. That they have 15 days after the time
8 they receive the letter to object to the letter.

9 Q. And in this sentence, who is "they"?

10 A. Customers.

11 Q. The Vermont customers?

12 A. The Vermont customers.

13 Q. And in the first sentence in 2-A,
14 which says, "BOI shall file Application for
15 Discontinuance with the FCC." What did that let
16 you know?

17 A. Just by reading it, I wasn't sure.
18 That's why I called the FCC.

19 Q. So you called the FCC on your own
20 after reviewing this letter?

21 A. Yes.

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1 Q. Ms. Dennie did not ask you to call the
2 FCC?
3 A. **She did ask me to call the FCC if I**
4 **had any questions and in regards to a**
5 **Discontinuance Letter.**
6 Q. When did she tell you that?
7 A. **I believe when she gave me the letter.**
8 Q. When did you first contact the FCC, if
9 you recall?
10 A. **I don't remember. It was after the**
11 **Discontinuance Letters went out.**
12 Q. Do you remember when the
13 Discontinuance Letters went out?
14 A. **I believe in the beginning of**
15 **December.**
16 Q. You previously said that you first
17 talked to Mr. Mincoff at the FCC.
18 A. **Yes.**
19 Q. And in that conversation, he
20 instructed you on the discontinuance procedures?
21 A. **Yes.**

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1 Q. Did he send you anything?
2 A. **He sent me a sample of a**
3 **Discontinuance Application they received from**
4 **another company.**
5 Q. And I previously showed you this
6 document, but is that what Mr. Mincoff sent to
7 you? And that is an FCC cover sheet followed by
8 an application on behalf of Cable and Wireless.
9 A. **Yes.**
10 Q. And what is that application from
11 Cable and Wireless for?
12 A. **Discontinuance of a service.**
13 Q. Does that refresh your memory as to
14 the approximate time period when you first came
15 in contact with Mr. Mincoff? The fax cover sheet
16 says December 18th.
17 A. **It was probably a couple days before**
18 **that.**
19 Q. That you first spoke with Mr. Mincoff?
20 A. **I believe so.**
21 Q. Were they long conversations?

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1 A. **Some of them were.**
2 Q. How many did you have?
3 A. **Quite a few.**
4 Q. More than five?
5 A. **Yes.**
6 Q. More than ten?
7 A. **Well, it was both him and John Adams**
8 **that I was speaking with. And I had a three-way**
9 **call, also.**
10 Q. With the two of them?
11 A. **Yes.**
12 Q. So there's no way to separate out the
13 number of times you talked to each of them, is
14 there?
15 A. **I don't remember.**
16 Q. So you had roughly ten conversations
17 with the two of them or together over the course
18 of how many days?
19 A. **Probably about two weeks.**
20 Q. And you discussed the --
21 A. **I don't remember it just being a**

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1 **couple days.**
2 Q. But it was over a two-week time
3 period?
4 A. **Yes.**
5 Q. Do you remember if they sent you faxes
6 at the beginning of the time period that you
7 began to speak with them or towards the end of
8 the time period you were speaking with them?
9 A. **Towards the beginning.**
10 Q. So is it fair to say that those
11 conversations lasted until the end of December?
12 A. **Yes. It was more in the beginning**
13 **then towards the end of that period.**
14 Q. And the beginning of the time period
15 was around the 18th of December?
16 A. **Yes.**
17 Q. Could you give me a rough idea of how
18 those conversations went? You initiated them?
19 You called Mr. Mincoff first?
20 A. **Yes.**
21 Q. What did you say to him?

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1 A. I asked him about the Discontinuance
2 Application. What I needed to do if he had a
3 sample.
4 Q. And he sent you the sample?
5 A. Yes.
6 Q. On the 18th of December?
7 A. Yes.
8 Q. Approximately?
9 A. Uh-huh.
10 Q. And then what did you do?
11 A. What did I talk about or what did I
12 do?
13 Q. What did you do? Did you call him
14 back after reading over the sample or did you
15 begin to draft the Discontinuance --
16 A. I began the draft, the application.
17 Q. Did you call him back while you were
18 drafting the Discontinuance Application?
19 A. While I was drafting, I don't
20 remember.
21 Q. Did you call him back to talk about

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1 specifics of your -- of Business Options'
2 Discontinuance Application?
3 A. To compare to this one (indicating)?
4 Q. For any reason.
5 A. For anything?
6 Q. Yes.
7 A. I don't recall.
8 Q. Do you recall when the next time you
9 spoke with either Mr. Mincoff or Mr. Adams after
10 Mr. Mincoff faxed you Cable and Wireless'
11 application?
12 A. Actually, I did call. Now I remember.
13 He didn't fax it to me and I called him to see
14 where it was. And he faxed it to me. And I just
15 asked him basic questions like, what's going to
16 happen and what else I needed to do.
17 Q. And you called him because he hadn't
18 faxed to you Cable and Wireless' sample?
19 A. The second time I talked to him is
20 when I called him because I didn't receive the
21 sample. And then he sent it over to me.

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1 Q. And then you called him to say what?
2 A. Then what?
3 Q. Then you called him to say -- I
4 thought you just said that after he faxed it to
5 you, then you called him up to talk again; is
6 that correct?
7 A. No. After -- say that again.
8 Q. After Mr. Mincoff faxed the Cable and
9 Wireless sample application, did you then call
10 him back?
11 A. Yes.
12 Q. And what was the purpose of that call?
13 A. I asked him if he would look at it.
14 He told me that he would look at for me.
15 Q. And when you say "look at it," do you
16 mean Business Options' applications?
17 A. Business Options. The one that I
18 drafted off of the sample he faxed me.
19 Q. Had you written Business Options'
20 application at that time?
21 A. Yes.

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1 Q. So you received the sample Cable and
2 Wireless application from Mr. Mincoff?
3 A. Yes.
4 Q. And roughly the next thing you did was
5 begin to write Business Options' application; is
6 that correct?
7 A. Yes.
8 Q. How did you write Business Options'
9 application?
10 A. I pretty mirrored this one
11 (indicating).
12 Q. Did you do it in one sitting?
13 A. I believe so.
14 Q. Do you remember how long it took you?
15 A. No, I don't.
16 Q. I'm going to show you a fax from you
17 to John Adams, dated December 20th. That
18 attaches what looks to be Business Options'
19 Discontinuance Application. Do you recognize
20 that?
21 A. Yes.

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1 Q. Did you see that refresh your memory
2 as to when you wrote Business Options'
3 Discontinuance Application?
4 A. 12-20.
5 Q. Does that help jog your memory?
6 A. A little bit.
7 Q. Now, when you sent this Discontinuance
8 Application to Mr. Adams, were you intending to
9 file it with the Commission?
10 A. He told me yes. And he told me he
11 would look over it.
12 Q. Can you read that, please.
13 A. "To John Adams from Lisa Green. I am
14 sending these documents to Vermont PUC,
15 Governor's office and the U.S. Secretary of
16 Defense. Please let me know if I am missing
17 anyone or anything. Thank you. You've been a
18 lot of help." Thank you. Have a great holiday.
19 Lisa."
20 Q. And that's your handwriting at the
21 bottom of that fax cover sheet?

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1 A. Yes.
2 Q. Did Mr. Adams respond to your request?
3 A. I don't recall.
4 Q. Did Mr. Mincoff respond to your
5 request?
6 A. I don't remember if they specifically
7 responded or what they said.
8 Q. Did you sign that copy of the
9 Discontinuance Application that's attached to
10 that fax cover sheet?
11 A. This one specifically, yes.
12 Q. But the version that you faxed to Mr.
13 Adams, was that a signed copy of the application?
14 A. No.
15 Q. Between December 18 and December 20th,
16 did you have any conversations with either Mr.
17 Mincoff or Mr. Adams?
18 A. I don't remember. I talked to them
19 both quite a few times.
20 (A short break was taken.)
21 Q. When we -- before we broke, we were

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1 talking about the conversations that you had with
2 Mr. Mincoff and Mr. Adams at the FCC in the
3 roughly two-week period towards the end of
4 December of 2002. In any of these conversations,
5 did you ask Mr. Mincoff or Mr. Adams about the
6 Commission's Discontinuance Rule, specifically 47
7 CFR 63.71?
8 A. I don't recall.
9 Q. Did you have any discussions initiated
10 by either Mr. Mincoff or Mr. Adams about the
11 Commission's Discontinuance Rules, specifically
12 47 CFR 63.71?
13 A. I remember one of them telling me that
14 I could find them on-line.
15 Q. "Them," being?
16 A. Being the rules.
17 MR. HAWA: If I could ask a
18 clarification again. Obviously, they're talking
19 about the Discontinuance Rules generally. You're
20 talking about the specific requirements of 63.71.
21 MR. HARKRADER: No. I'm actually

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1 asking more generally. Was there any discussion
2 about 47 CFR 63.71? Were there discussions about
3 that rule?
4 MR. HAWA: Not generally,
5 specifically.
6 MR. HARKRADER: I think we're saying
7 the same thing.
8 MR. HAWA: I don't think so.
9 MR. HARKRADER: You don't think so? I
10 hear you though.
11 BY MR. HARKRADER:
12 Q. Did you have any conversations with
13 Mr. Mincoff about the specific requirements of
14 that rule, meaning, Section 63.71 of the
15 Commission's rules?
16 A. I remember him telling me I could find
17 those rules on-line.
18 Q. Do you remember which -- was it Mr.
19 Mincoff or Mr. Adams?
20 A. I want to say Mincoff, but I'm not
21 absolutely sure.

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1 Q. Do you remember where he told you to
2 find those rules?
3 A. **All he said was on-line.**
4 Q. Did you make any attempt to find those
5 rules on-line?
6 A. **Yes, I did.**
7 Q. Were you successful?
8 A. **No, I wasn't. Not at first.**
9 Q. Do you remember if --
10 A. **Eventually, I was. But right after**
11 **that conversation, I did not find --**
12 Q. In the late December time frame, were
13 you successful?
14 A. **Correct, yes.**
15 Q. You were not successful in the late
16 December time frame?
17 A. **Pardon me?**
18 Q. You were not successful in finding
19 those rules?
20 A. **It was later December that I found**
21 **those rules, but not that same day that I talked**

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1 **to Mincoff and told me it was on-line. I could**
2 **not find it then, the end of December.**
3 Q. That's helpful. When you had the
4 discussion with either Mr. Mincoff or Mr. Adams,
5 and they told you that you could find the
6 specifics of Rule 63.71, the Commission's
7 Discontinuance Rules on-line, was that before you
8 had drafted the Discontinuance Application for
9 BOI?
10 A. **Yes, it was.**
11 Q. Did you also have a conversation with
12 either Mr. Mincoff or Mr. Adams or both of them
13 about -- or in which they suggested that Business
14 Options file a waiver?
15 A. **Yes.**
16 Q. And what was the waiver for?
17 A. **A waiver of, I believe, the specific**
18 **rules of that.**
19 Q. Of Section 63.71?
20 A. **Yes.**
21 Q. Did you ask them or did they tell you

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1 what specific parts of Rule 63.71 BOI needed a
2 waiver for?
3 A. **Yes.**
4 Q. What part was that?
5 A. **For the way it was -- the way we were**
6 **going about the Discontinuance Letter and the**
7 **time frame.**
8 Q. And what about the time frame?
9 A. **It wasn't in accordance with the FCC**
10 **regulations.**
11 Q. Did they tell you what those
12 regulations were?
13 A. **Yes, they did.**
14 Q. And what were those regulations?
15 A. **I don't remember exactly, but it was a**
16 **lot longer than he had put in the letter. We**
17 **gave the customer 15 days because there was a**
18 **misunderstanding with the 15 days.**
19 Q. And you're pointing to --
20 A. **And eventually longer -- I'm sorry.**
21 **I'm pointing at -- it doesn't have a number --**

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1 **the November 19th letter.**
2 Q. And that's the one from the State of
3 Vermont?
4 A. **Correct. Stating that recipients of**
5 **the notice have 15 days from receipt to file**
6 **objection with the FCC. Which is true, but we're**
7 **not supposed to, from my understanding of talking**
8 **to them, discontinue until the FCC has a time**
9 **period also that we were supposed to go by.**
10 Q. And you learned about those rules from
11 Mr. Mincoff or Mr. Adams?
12 A. **Correct.**
13 Q. And do you have a copy of the
14 Discontinuance Letter?
15 A. **In front of me?**
16 Q. Yes. That Business Options actually
17 sent out.
18 A. **No. Not in front of me.**
19 Q. I'm going to show you a copy that we
20 looked at previously. And this is the copy of
21 the Discontinuance Letter that was apparently

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1 sent out to the Vermont customers that bears your
2 signature but does not bear a Bate Number.
3 **A. Okay.**
4 Q. What was your understanding in talking
5 to Mr. Mincoff and Mr. Adams? What was your
6 understanding about that letter that was
7 incorrect or not in compliance with the
8 Commission's rules pertaining to discontinuance?
9 MR. HAWA: This letter was not faxed.
10 This was not in the transmittal to Mr. Adams or
11 Mr. Mincoff. The Discontinuance Letter that
12 you're holding was not sent to John Adams or John
13 Mincoff. Is that in the record?
14 MR. HARKRADER: I don't know if it was
15 or not, but that's the letter that went out, so I
16 want to understand --
17 MR. HAWA: I'm sorry. I thought your
18 question was: What did Mr. Adams or Mr. Minkoff
19 tell you about the Discontinuance Letter?
20 MR. HARKRADER: If that was my
21 question, that's not what I meant.

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1 BY MR. HARKRADER:
2 Q. After you had the conversation or
3 while you were talking to Mr. Mincoff and Mr.
4 Adams about the Commission's regulations with
5 respect to Discontinuance Notifications, all that
6 is found in 63.71, what about the letter that BOI
7 sent out does not comply with the Commission's
8 rules pertaining to discontinuance?
9 **A. Because, I don't remember exactly, but**
10 **he said that you give the customers 15 days,**
11 **which is a Vermont regulation. But it actually**
12 **is a longer process Federally.**
13 Q. The FCC requires a longer process?
14 **A. Right.**
15 Q. And do you remember what Mr. Mincoff
16 or Mr. Adams told you was the FCC's process?
17 **A. I don't remember. They did tell me, I**
18 **don't remember. But I remember them saying that**
19 **they shouldn't be disconnected until -- it was**
20 **either mid January or mid February.**
21 Q. On what were they basing that date?

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1 **A. The FCC regulations. But this had**
2 **already been sent out.**
3 Q. Correct. So that letter which you
4 sent out in the very beginning of December?
5 **A. Yes.**
6 Q. And based on the date that you sent
7 that letter out according to the FCC regulations
8 and according to Mr. Minkoff and Mr. Adams, BOI
9 should not have terminated service in Vermont
10 until mid January?
11 **A. Correct.**
12 Q. Did you have this conversation with
13 either Mr. Mincoff or Mr. Adams -- strike that.
14 Did Mr. Mincoff or Mr. Adams actually
15 see the letter that -- the discontinuance to
16 Vermont customers that BOI had sent?
17 **A. I believe they did.**
18 Q. How did they see that?
19 **A. I believe Vermont sent them a copy.**
20 Q. Did Mr. Mincoff or Mr. Adams reference
21 the fact that Vermont had sent them a copy?

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1 **A. No.**
2 Q. Do you remember when Vermont sent that
3 to Mr. Adams or Mr. Mincoff?
4 **A. No, I don't.**
5 **(Discussion held off the record.)**
6 Q. Let's take a look at 63.71. Will you
7 read the Bate Number at the bottom?
8 **A. 08447.**
9 Q. And does that appear to be a copy of
10 the Section 63.71 application?
11 **A. Yes.**
12 Q. That you filed with the FCC?
13 **A. Yes.**
14 Q. Did you file that?
15 **A. Yes, I did.**
16 Q. How did you go about doing that
17 filing?
18 **A. What do you mean?**
19 Q. Did you fax it to Mr. Mincoff or Mr.
20 Adams?
21 **A. I believe I did. I faxed -- I believe**

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1 that I faxed it.

2 Q. Did you also mail it to the

3 secretary's office at the FCC?

4 A. Yes.

5 Q. And you did that on Mr. Minkof's or

6 Mr. Adams' instructions?

7 A. Yes.

8 Q. Do you have the Cable and Wireless

9 application also in front of you?

10 A. Yes.

11 Q. When you received the Cable and

12 Wireless application from Mr. Mincoff, did you

13 immediately begin writing Business Options'

14 application?

15 A. Yes.

16 Q. And I believe you told me this before,

17 but you did it basically taking a great deal from

18 the Cable and Wireless application?

19 A. Yes.

20 Q. And putting into, I assume, a new Word

21 document?

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1 A. Yes.

2 Q. I'd like to direct your attention to

3 paragraph six of Business Options' application,

4 which is the bottom of the second page. And will

5 you read that out loud into the record, please.

6 A. **"Business Options, Inc. requests**

7 **authority to withdraw from the long distance**

8 **resale in the State of Vermont. Business Options**

9 **has re-evaluated its long distance business plan**

10 **and has concluded that it is in the company's**

11 **best interests at this time to streamline its**

12 **service offerings in Vermont."**

13 Q. And continues on to the next page.

14 Please read that. Did I give you a bad copy?

15 A. Yes. **"The applicant's request to**

16 **withdraw its long distance services from Vermont**

17 **is a strategic business decision based upon the**

18 **company's plans for future growth."**

19 Q. And turn to the previous page. What

20 is the title of that section?

21 A. **"Reason for request to discontinue**

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1 long distance service."

2 Q. Did you write that paragraph six

3 yourself?

4 A. No, I did not.

5 Q. Who wrote it?

6 A. **I took it off the Cable and Wireless**

7 **application.**

8 Q. The Cable and Wireless application.

9 Can you read paragraph six of that, please.

10 A. Yes. **"Reason for request to**

11 **discontinue local service: Cable and Wireless**

12 **requests authority to withdraw from the local**

13 **resale and markets in Connecticut, California and**

14 **New York. Cable and Wireless has reevaluated its**

15 **local business plan and it has concluded that it**

16 **is in the company's best interest, at this time,**

17 **to streamline its service offerings and to focus**

18 **its attention and financial strength on the**

19 **provision of inner exchange and other enhanced IP**

20 **services to business customers. The applicant's**

21 **request to withdraw from these local resale**

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1 **markets is a strategic business decision that's**

2 **based upon the company's plans for future**

3 **growth."**

4 Q. Thank you.

5 A. Your welcome.

6 MR. HAWA: Is there any way that we

7 can note, for the record, because it's not clear

8 that those provisions are substantially

9 identical.

10 MR. HARKRADER: I think the record

11 will reflect that.

12 BY MR. HARKRADER:

13 Q. Is the reason that you gave in

14 paragraph six for Business Options'

15 discontinuance correct?

16 MR. HAWA: Objection. That calls for

17 a legal conclusion.

18 MR. HARKRADER: How is that? She's

19 the one who drafted this.

20 (Discussion held off the record.)

21 BY MR. HARKRADER:

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1 Q. Is paragraph six as you wrote it in
2 Business Options' application accurate?
3 A. To a certain extent.
4 Q. To what extent is that?
5 A. At that time, I believed the company
6 was making a business decision other than
7 fighting Vermont to stay in their state.
8 Q. How did you come to that understanding
9 that the company was making that business
10 decision?
11 A. That was my opinion.
12 Q. Based on what?
13 A. Just based on things that I had read.
14 Q. What had you read?
15 A. It was my understanding that they
16 would have to fight to stay in Vermont other than
17 get reinstated -- withdrawn.
18 Q. And what had you read to that effect?
19 A. It was my understanding. Nothing that
20 I read. Things that I had read, the
21 Discontinuance. But it was my understanding that

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1 they would have to really fight to stay in
2 Vermont. So it would be a better decision to
3 withdraw as ordered. I did not understand the
4 process at the time of what they had to do to
5 stay, is what that I meant.
6 Q. You did not understand what process at
7 the time?
8 A. Everything that they had to do to stay
9 in there. I knew it would have to be like a
10 court or a hearing. I'm sorry.
11 Q. And "they" is Business Options?
12 A. Business Options, sorry.
13 Q. But this is substantially similar to
14 the reason given in the Cable and Wireless
15 application, is it not?
16 A. Correct.
17 Q. At this time, did you know about the
18 Vermont investigation?
19 A. Yes.
20 Q. And did you know that the company had
21 agreed to withdraw from service in Vermont?

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1 A. Yes.
2 Q. But you nonetheless put in paragraph
3 six that the reason that Business Options was
4 withdrawing was because it reevaluated its long
5 distance plan and concluded that it was in the
6 company's best interests to streamline its
7 service offerings in Vermont?
8 A. Right.
9 Q. Did you put anything in here about the
10 Vermont stipulation or the agreement that BOI had
11 with Vermont?
12 A. No.
13 Q. Why did you not do that?
14 A. I wasn't aware that I had to do that.
15 Q. But isn't that the reason why Business
16 Options was not going to continue doing business
17 in Vermont?
18 A. They agreed to stop doing business in
19 Vermont. But I was under impression that they
20 could have fought to stay.
21 Q. "They," being BOI?

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1 A. Business Options, correct.
2 Q. And had they continued to fight, there
3 would be no need for a Discontinuance
4 Application; is that correct?
5 A. Right. I wouldn't think so.
6 Q. Will you please now look at paragraph
7 eight on the third page of Business Options'
8 application. Will you please read that paragraph
9 into the record.
10 A. "Business Options has developed a
11 comprehensive customer notification that will
12 ensure a seamless transition for its current long
13 distance customers. The initial customer notice
14 letter has been sent to customers and attached as
15 Exhibit A. As we did not know of the FCC
16 requirements to send the letter out pursuant to
17 63.71. We are requesting a waiver not to reissue
18 the notification letter.
19 Please consider that Business Options
20 is not a dominant carrier. Our letter has all
21 the information requests by the State of Vermont

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1 and another letter would only create customer
2 confusion and delay in our ability to
3 restructure. The customer notification has
4 informed customers of the proposed withdraw by
5 applicant. Business Options does not intend to
6 sell its customers' list to any long distance
7 provider, but will allow the customer to select a
8 new service provider of their own preference.

9 Business Options also has provided
10 customers with its toll-free customer assistance
11 number for purposes of addressing any questions
12 or concerns that may arise during the withdraw
13 transition period."

14 Q. Thank you. Will you read paragraph
15 eight from the Cable and Wireless application.

16 A. "Cable and Wireless has developed a
17 comprehensive three-step customer notification
18 plan that will ensure a seamless transition for
19 the current local resale customers. The initial
20 customer notice letter has been sent to customers
21 concurrently with this filing and is attached as

1 application; is that correct?

2 A. Yes.

3 Q. Is that language found at all in
4 paragraph eight of the Cable and Wireless
5 application?

6 A. No.

7 Q. Is that language found anywhere else,
8 to your knowledge, in the Cable and Wireless
9 application?

10 A. Yes.

11 Q. I'm sorry?

12 A. Stating that the cable company is a
13 non-dominant carrier is in paragraph two.

14 Q. Of the Cable and Wireless?

15 A. Correct.

16 Q. And did you take your statement that
17 Business Options is a nondominant carrier in
18 paragraph eight from paragraph two in the Cable
19 and Wireless application?

20 A. Yes, I did.

21 Q. Did you take anything else from the

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1 Exhibit A.

2 Customer notification will inform
3 customers of the proposed withdrawal by
4 applicant. Cable and Wireless does not intend to
5 sell its customers list to any particular local
6 service provider, but will allow the customer to
7 select a new service provider of their own
8 preference. Cable and Wireless also will provide
9 customers with its toll-free customer assistance
10 number for purposes of addressing any questions
11 or concerns that may arise during the withdrawal
12 transition period."

13 Q. So with respect to Business Options
14 paragraph eight and Cable and Wireless paragraph
15 eight, the first sentences are substantially
16 similar, are they not?

17 A. Yes.

18 Q. But in Business Options paragraph
19 eight, you add some additional language about the
20 initial customer notice. And that's found in the
21 second, third and fourth sentences in the BOI

1 second, third and fourth sentences of paragraph
2 eight from the Cable and Wireless application?

3 A. From paragraph eight, the plan.

4 Q. What plan is that?

5 A. I'm sorry, not the plan, but the
6 customer letter letting them know that the
7 attached notice letter, that's in the same
8 paragraph. I don't see anything else.

9 Q. Okay. Thank you. Where did you come
10 up with the sentence beginning, "The initial
11 customer notice"?

12 A. Say that again.

13 Q. The second sentence, "The initial
14 customer notice letter has been sent to customers
15 and is attached as Exhibit A, as we did not know
16 to send the letter out pursuant to 63.71." Did
17 you write that yourself?

18 A. Partially.

19 Q. What part of that did you write?

20 A. From talking to the FCC, I was told
21 to -- not told. They suggested that I mention

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1 that I didn't know about the 63.71.
2 Q. Who --
3 A. I told them that I was unaware -- I
4 thought it was just Vermont regulations that we
5 had to go by and not both Vermont and Federal.
6 Q. You told this to either Mr. Mincoff or
7 Mr. Adams?
8 A. One of them, yes.
9 Q. And you were under the impression that
10 only Vermont regulations required you to provide
11 this notice?
12 A. The whole discontinuance -- the
13 withdraw, excuse me.
14 Q. Did you have an understanding as to
15 why you were making a filing with the Federal
16 Communications Commission on discontinuance?
17 A. I meant before that.
18 Q. Okay. And they were the ones who told
19 you to put in here that you didn't know anything
20 about 63.71?
21 A. No. I told them that I thought that

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1 we had to just do the withdraw through Vermont
2 regulations. And they told me to put that in the
3 waiver and I put it in both.
4 Q. I don't see here where you talk about
5 you thought that, you know, I only had to comply
6 with Vermont regulations.
7 A. No. I didn't put that part in.
8 Q. What part did you put in?
9 A. We did not know of the FCC
10 requirements to send the letter out pursuant to
11 63.71.
12 Q. Is that an accurate statement?
13 A. For myself, yes.
14 (A short break was taken.)
15 Q. Before we broke, we were talking about
16 paragraph eight that you wrote in Business
17 Options application, correct?
18 A. Yes.
19 Q. In that same paragraph, you wrote,
20 "Our letter has all the information requested by
21 the State of Vermont." What was your

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1 understanding of what was requested by the State
2 of Vermont?
3 A. Just what I had written in the letter,
4 the November 19th letter. And Shannon told me,
5 also.
6 Q. What you had written, meaning, the
7 Discontinuance Letter that you had drafted when
8 Shannon gave you the November 19th Vermont
9 letter; is that correct?
10 A. Correct.
11 Q. But you knew at the time that you
12 drafted this application, did you not, that the
13 letter you wrote, the Discontinuance Letter you
14 wrote to the Vermont customers, was not the
15 letter that ultimately went out?
16 A. Right.
17 Q. So what was -- I apologize if I'm
18 being circular. What was the -- what were you
19 referring to when you wrote this, "Our letter has
20 all the information requested by the State of
21 Vermont"?

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1 A. When I wrote the Discontinuance Letter
2 and I gave it to Shannon, it was changed. And I
3 told her that it doesn't have the newly-drafted
4 one that was initially sent out. It did not have
5 as much information as mine did. And she told me
6 that the one that was sent from Vermont, was a
7 sample and it didn't have to be exactly the
8 same -- exactly the same as the sample letter, as
9 long as the information that was in there was
10 what they were asking for.
11 Q. Did you ever compare the letter that
12 Business Options sent out with the letter that
13 you first wrote?
14 A. Yes, I did.
15 Q. Did you agree with the -- strike that.
16 Did you think that the two letters
17 were substantially similar?
18 A. No. I liked mine better. Mine had
19 more information, is what I meant.
20 Q. Any other reasons why you liked it
21 better?

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1 A. Because it -- it was a lot like the
2 sample that was sent, which I thought was what
3 they were looking for.
4 Q. It was a lot like the sample from the
5 State of Vermont?
6 A. Correct.
7 Q. Will you please read paragraph nine
8 into the record from the Business Options
9 application.
10 A. "Business Options has given its
11 customers 15 days from the day they received our
12 notification letter to choose another long
13 distance provider and protest our request for
14 discontinuance. Business Options has every
15 intent of assisting current customers in any way
16 we can to avoid any inconveniences that may occur
17 through this transition."
18 Q. And when had you wrote this, had you
19 already had the conversations with -- or
20 conversation with Mr. Mincoff or Mr. Adams about
21 what the Commission would require with respect to

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1 timing for the Discontinuance Rule 63.71?
2 A. When I wrote that, no.
3 Q. You had not had that conversation?
4 A. No.
5 Q. How do you know that, you seem pretty
6 sure?
7 A. Because I wouldn't have written it if
8 I talked to them first. I probably would not
9 have put it in there at all.
10 Q. So another way of saying that is that
11 had known of the requirements of 63.71, you would
12 have not put that language in there about how you
13 had given 15 days?
14 A. Correct.
15 Q. Is it also fair to say that had you
16 known of the requirements of 63.71, you would not
17 have given the Vermont customers 15 days?
18 A. Correct.
19 Q. The Discontinuance Letter that went
20 out went out roughly two weeks before you wrote
21 Business Options' application?

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1 A. Right.
2 MR. HAWA: I'm not sure I understood
3 that. What was the connection on that last
4 question that you drew?
5 MR. HARKRADER: The connection
6 between?
7 MR. SHOOK: The timing of the letter
8 that was sent to the Vermont customers and the
9 timing of the Discontinuance Application.
10 MR. HARKRADER: There is a two-week
11 span between when the letter went out.
12 MR. HAWA: 15 days roughly.
13 MR. HARKRADER: Right. And when she
14 wrote this application in which she said that "We
15 had given the 15 days," in paragraph nine.
16 MR. SHOOK: The other connection is
17 the timing of the Discontinuance Letter versus
18 the information in that letter as to when service
19 would actually be cut off. There's a date that
20 appears in the letter. What's not as clear,
21 because all the letters that we have are undated,

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1 as to when it was that those letters actually
2 went out.
3 MR. HAWA: And it's also not clear how
4 much lead-in time is built in from the date that
5 Business Options would submit its disconnection
6 of 200-and-some-odd customers and how long it
7 takes to process it, which --
8 MR. SHOOK: That's a great unknown.
9 MR. HAWA: Again, with a time of
10 anywhere from 3 to 30 days to process.
11 BY MR. HARKRADER:
12 Q. Did you have any discussions with Mr.
13 Adams or Mr. Mincoff before you wrote Business
14 Options' 63.71 application concerning the
15 agreement between Business Options and Vermont
16 for Business Options to withdraw service in
17 Vermont?
18 A. No.
19 Q. So as far as you knew, they did not
20 know about the Vermont agreement between Business
21 Options and the State of Vermont?

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1 A. I believe I assumed that they did
2 know.
3 Q. Did they ever mention to you that they
4 knew?
5 A. I don't remember.
6 Q. Were you concerned, when you drafted
7 this application, that had you include anything
8 about the Vermont stipulation that the
9 Commission -- the Federal Communications
10 Commission would have rejected your application?
11 A. No.
12 Q. You're not concerned at all?
13 A. If I put it in there?
14 Q. Correct.
15 A. No.
16 Q. Did anybody at Business Options review
17 this application after you wrote it?
18 A. Yes.
19 Q. Who was that?
20 A. Kurtis.
21 Q. Did he have any comments about your --

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1 A. He made a few changes.
2 Q. Did you have an initial draft, a first
3 draft that you gave to him?
4 A. Yes.
5 Q. Do you still have a copy of that in
6 your files?
7 A. I think I do, but I'm not absolutely
8 sure.
9 MR. SHOOK: Is there a paper copy that
10 reflects whatever changes --
11 THE WITNESS: The changes he made,
12 right. I think there is. I'll double-check when
13 I get the draft of my Discontinuance Letter.
14 MR. HAWA: I'll get you a paper copy
15 reflecting the changes.
16 (Discussion held off the record.)
17 BY MR. HARKRADER:
18 Q. Do you have a copy of the application
19 in front of you?
20 A. Yes.
21 Q. Would you be able to give us an idea

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1 of the changes that Kurtis made?
2 A. No.
3 Q. Did anybody else review it besides
4 Kurtis?
5 A. I believe Shannon Dennie did.
6 Q. Did she review it before or after
7 Kurtis reviewed it?
8 A. It would have been before.
9 Q. So you went up the chain of command?
10 A. Correct.
11 Q. Did she have any changes to your
12 draft?
13 A. No. I believe she gave it right to
14 Kurtis.
15 Q. Did she read it?
16 A. I believe so.
17 Q. Did you have any discussions with
18 Business Options about this draft -- about your
19 initial draft of the application?
20 A. It would have been only Shannon
21 Dennie.

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1 Q. Did those conversations actually
2 happen or are you speculating that they probably
3 happened?
4 A. I'm speculating that if I did have, it
5 would have been with her.
6 Q. So sitting here today, you have no
7 memory of any conversations with Ms. Dennie about
8 the drafting of the application?
9 A. I'm sure I did, I just can't recall.
10 And if I could just say that when this happened,
11 I didn't really understand what exactly was going
12 on. And it was such a rush process, this has to
13 be done, that has to be done, that I don't think
14 I'm remembering like I should. I'm telling you
15 what I remember, but as far as specific dates,
16 it's hard to remember when you don't understand.
17 Which is why I was on the phone with the FCC
18 quite often.
19 Q. I'd like to show you a copy of the
20 request for waiver. That's Bate Stamped 08453.
21 Do you recognize that document?

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<p>1 A. Yes.</p> <p>2 Q. Did you draft that document initially?</p> <p>3 A. Yes.</p> <p>4 Q. Did you file that document at the same</p> <p>5 time as you filed the 63.71 application?</p> <p>6 A. It was close. I don't recall.</p> <p>7 Q. Do you have a memory that you filed --</p> <p>8 A. It was soon after.</p> <p>9 Q. I believe we have -- again, I'm not</p> <p>10 trying to trick you. I believe we have file</p> <p>11 stamped copies that show -- that one doesn't. I</p> <p>12 believe that we do have copies that those were</p> <p>13 filed on the same date, if that helps you. Did</p> <p>14 you draft this request for waiver on your own?</p> <p>15 A. No.</p> <p>16 Q. How did you draft it?</p> <p>17 A. I received a sample from the FCC.</p> <p>18 Q. I'm going to hand you a fax from John</p> <p>19 Mincoff to you dated December 19th, 2002. And it</p> <p>20 is not Bate Stamped, but I want you to look at</p> <p>21 that and see if that's what the FCC sent to you.</p>	<p>1 Q. And they had the same first names,</p> <p>2 too.</p> <p>3 A. Yes. Which is hard to remember who I</p> <p>4 talked to about what.</p> <p>5 Q. Do you remember when either Mr. Adams</p> <p>6 or Mr. Mincoff suggested that you file a waiver?</p> <p>7 A. Not exactly.</p> <p>8 Q. I'm going to show you a fax cover</p> <p>9 sheet from you to Mr. Adams that's Bate Stamped</p> <p>10 08079, I believe; is that correct? Will you read</p> <p>11 what you wrote to Mr. Adams.</p> <p>12 A. "This is a notice I sent out to</p> <p>13 Vermont customers. I am waiting on John Mincoff</p> <p>14 to send me a sample waiver. Please look over the</p> <p>15 notice and let me know what you think." So then</p> <p>16 it was Mincoff I talked to. It was Adams that I</p> <p>17 asked if it was approved or not.</p> <p>18 Q. If what was approved?</p> <p>19 A. The waiver.</p> <p>20 Q. Okay. Does that refresh your</p> <p>21 recollection as to the date when you talked to</p>
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<p>1 (Witness Reviewing Document.)</p> <p>2 A. Yes.</p> <p>3 Q. And did you base your request for</p> <p>4 waiver on that filing?</p> <p>5 A. Yes, I did.</p> <p>6 Q. And I believe if my memory is still</p> <p>7 holding, that's an Alma (phonetic) telephone</p> <p>8 filing?</p> <p>9 A. Correct.</p> <p>10 Q. Whose idea was it to file the waiver?</p> <p>11 A. The FCC.</p> <p>12 Q. Mr. Mincoff or Mr. Adams?</p> <p>13 A. Uh-huh.</p> <p>14 Q. I assume it was Mr. Mincoff or Mr.</p> <p>15 Adams, do you remember which one told you?</p> <p>16 A. I believe it was Adams, but I'm not</p> <p>17 positive.</p> <p>18 Q. Did you seem to have contact with one</p> <p>19 more than the other or were they somewhat</p> <p>20 interchangeable?</p> <p>21 A. They were pretty much even.</p>	<p>1 them about the waiver?</p> <p>2 A. Correct, yes.</p> <p>3 Q. So I assume it was before then, before</p> <p>4 the 18th when you discussed the waiver with Mr.</p> <p>5 Mincoff?</p> <p>6 A. It must have been.</p> <p>7 Q. Who reviewed the waiver at Business</p> <p>8 Options before you sent it?</p> <p>9 A. Shannon Dennie.</p> <p>10 Q. Did she read it?</p> <p>11 A. Yes.</p> <p>12 Q. Did she have any comments or</p> <p>13 suggestions?</p> <p>14 A. Not that I recall.</p> <p>15 Q. What did she do with it? Did she give</p> <p>16 it back to you?</p> <p>17 A. I believe so.</p> <p>18 Q. Did you show it to Kurtis?</p> <p>19 A. I don't recall. I don't recall or</p> <p>20 not.</p> <p>21 Q. Do you remember if you showed it to</p>